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January 17, 2007*

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Attorneys for Fertitta Enterprises, Inc.,
and designated Nevada counsel for Estate of Tabas

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC,
Debtor.

USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

USA SECURITIES, LLC,
Debtor.

Affects:
☐ All Debtors
☒ USA Commercial Mortgage Company
☐ USA Capital Realty Advisors, LLC
☐ USA Capital Diversified Trust Deed Fund, LLC
☐ USA Capital First Trust Deed Fund, LLC
☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

Chapter 11

**MOTION FOR ORDER
SHORTENING TIME FOR
HEARING ON ESTATE OF
DANIEL TABAS' AND FERTITTA
ENTERPRISES, INC.'S MOTION
FOR RELIEF FROM THE
AUTOMATIC STAY TO
TERMINATE THE LOAN
SERVICING AGREEMENT FOR
THE DIRECT LOAN TO COLT
GATEWAY LLC
(Affects USA CM ONLY)**

Hearing Date:
Hearing Time:

1 The Estate of Daniel Tabas and Fertitta Enterprises, Inc. ("Movants"), through their
 2 respective counsel, Jonathan J. Bart, Esq., and Janet L. Chubb, Esq., of Jones Vargas filed a
 3 Motion for Relief from the Automatic Stay to Terminate the Loan Servicing Agreement for the
 4 Direct Loan to Colt Gateway LLC ("Motion"). Movants hereby request an order shortening time
 5 for the hearing on its Motion based on the fact the Loan Servicing Agreement was not sold to
 6 Compass, so the liquidating trustee will service it. That transition will take time. Movants would
 7 like to change the servicer while Debtor is still servicing the loan.

8 The motion for relief from the automatic stay is based on the grounds that USA
 9 Commercial has failed to satisfy the terms of its loan servicing agreement or its obligations under
 10 the Nevada Administrative Code. Debtor's past and continuing contractual breaches constitute
 11 cause necessary to terminate the automatic stay in this loan. Movants request this relief from the
 12 automatic stay in order to terminate USA Commercial as the servicing agent the Colt Gateway and
 13 hire a new servicing agent.

14 WHEREFORE, Movants pray for an order shortening time for the hearing on this motion
 15 to a date as soon as possible as is consistent with the Court's calendar.

16 DATED this 17th day of January, 2007.

17 WILENTZ GOLDMAN & SPITZER P.A.

JONES VARGAS

18 //s//Jonathan J. Bart

//s//Louis M. Bubala III

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CERTIFICATE OF SERVICE

1. On January 17, 2007, I served the following document(s):

**MOTION FOR ORDER SHORTENING TIME FOR HEARING ON
ESTATE OF DANIEL TABAS' AND FERTITTA ENTERPRISES, INC.'S
MOTION FOR RELIEF FROM THE AUTOMATIC STAY TO
TERMINATE THE LOAN SERVICING AGREEMENT
FOR THE DIRECT LOAN TO COLT GATEWAY LLC**

2. I served the above-named document(s) by the following means to the persons as listed below:

■ a. **ECF System** (attach the "Notice of Electronic Filing" or list all persons and addresses):

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■ b. **United States mail, postage fully prepaid** (list persons and addresses):

THOMAS J. ALLISON
USA COMMERCIAL MORTGAGE ET AL.
4484 SOUTH PECOS ROAD
LAS VEGAS, NV 89121

9 c. **Personal Service** (list persons and addresses):
I personally delivered the document(s) to the persons at these addresses:

9 For a party represented by an attorney, delivery was made by handing the document(s) to the attorney or by leaving the document(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place in the office.

9 For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place of abode with someone of suitable age and discretion residing there.

■ d. **By direct email (as opposed to through the ECF System)** (list persons and email addresses):

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Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

1
2 **9 e. By fax transmission** (list persons and fax numbers):

3 Based upon the written agreement of the parties to accept service by fax
4 transmission or a court order, I faxed the document(s) to the persons at the
5 fax numbers listed below. No error was reported by the fax machine that I
6 used. A copy of the record of the fax transmission is attached.

7
8 **9 f. By messenger:**

9 I served the document(s) by placing them in an envelope or package
10 addressed to the persons at the addresses listed blow and providing them to
11 a messenger for service. (A declaration by the messenger must be attached
12 to this Certificate of Service).

13 **I declare under penalty of perjury that the foregoing is true and correct.**

14 DATED this 17th day of January, 2007.

15 J. Englehart & Tawney Waldo
16 Name

17 //s// Tawney Waldo & J. Englehart
18 Signature

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